IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4261 OF 2007

Shri.Namdeo Bapu Savant ...Petitioner

Versus

Shri.Narayan Lade Parab & Ors. ...Respondents

.....

Mr.P.S.Dani for Petitioner.

None for Respondents.

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CORAM: A.M.KHANWILKAR, J.

JULY 6, 2007.

P.C.

1. Going by the prayer clause, it is obvious that the Petitioner is first seeking declaration about his right to apportionment of the compensation amount along with Respondents. In other words, that is a plea of title taken in the Suit. It is only on final adjudication of that plea, the question of disbursing compensation amount will arise. Indeed, the Petitioner may be justified in submitting that apportionment issue can be resolved in Section 30 proceedings. In

Section 30 proceedings, however, the appropriate authority is not competent to adjudicate the issue of title, which will have to be done only by the Civil Court.

2. Counsel for the Petitioner, relying on observations in Paragraphs 6 and 7 of the impugned Judgment would contend that the Trial Court has not addressed the issue in the manner referred to earlier but has proceeded to observe that the Respondent/Plaintiff was seeking injunction which relief can be granted by the Civil Court. The operative order, however, of the Trial Court deserves to be upheld on the reasons already recorded by me earlier.

3. Insofar as reason recorded in paragraph 5 of the impugned Judgment of the Trial Court is concerned, that is unexceptionable. There is no prayer in the Suit as filed for declaration that the Notification issued under the provisions of the Land Acquisition Act or the Award passed thereunder is invalid or illegal. It is only in respect of such a Suit, the issue on maintainability or

jurisdiction of the Civil Court may arise for consideration in terms of the decision of the Apex Court in the case of **Laxmi Chand & Ors. v. Gram Panchayat, Kararia & Ors. reported in AIR 1996 SC 523**. That is not the case on hand. Accordingly, no interference is warranted in this Petition for the aforesaid reasons. All issues on merits, however, are left open to be considered at the trial.

A.M.KHANWILKAR, J.